

IV. REMARKS

Claims 1-31 are pending in this action. By this Amendment, the specification and claims 1, 3-5, 7-9, 15-16, 23-24, 26-28 and 30-31 have been amended. The amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants do not acquiesce in the correctness of the objections and rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the above amendments and following remarks is respectfully.

By this Amendment, claims 3-5, 7, 23, 26-28 and 30 have been revised solely to correct a typographical error.

1. Objection to the drawings.

In the Office Action, the drawings are objected to because they include reference characters not mentioned in the description. By this Amendment, the specification has been revised to make reference to all numerals used in the drawings. Accordingly, Applicants respectfully request withdrawal of the objection.

2. Objections to claims.

In the Office Action, claims 1-7, 9-10, 14-22 and 24-31 are objected to because of alleged informalities. By this Amendment:

Claims 1, 9, 16, 24 and 31 have been revised to substitute “time” for “expanded time”. Applicants submit that the term “expanded time” as originally claimed is readily understandable

to a person having ordinary skill in the art such that the scope of the claims are clear. Applicants nevertheless have made the above amendments only to facilitate earlier allowance of the claimed subject matter.

Claim 15 has been revised to substitute “a status indicator” for “the status indicator”. Accordingly, Applicants respectfully request withdrawal of the objections.

With respect to claims 6, 14, 21 and 29, Applicants submit that the term “threshold” is readily understandable to a person having ordinary skill in the art. Any threshold may be set for the average query completion time and the claimed invention is not limited to any specific numerical value for the threshold. In addition, the specification provides an example to further clarify the meaning of the threshold. (Please see paragraph 0028.) Accordingly, Applicants submit that the use of the term is not unclear. In view of the foregoing, Applicants respectfully request withdrawal of the objections to claims 6, 14, 21 and 29 (note that in section 2.f. of the Office Action, the Office lists claims 5, 14, 21 and 29, with “5” apparently being a typographical error).

3. Rejection under 35 USC §101.

In the Office Action, claims 8-22 are rejected under 35 USC §101 because the claimed invention is allegedly directed to non-statutory subject matter. By this Amendment, claim 8 has been amended to claim a computer system including computer components, which is statutory. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 8-15.

With regarding to claim 16, the Office alleges that the computer useable medium in claim 16 includes signals and carrier waves that are not tangible medium. (Office Action at page 4). Applicants do not agree with this conclusion for a number of reasons. Most notably,

Applicants' representative has prosecuted patent applications in the computer/ business method art for years and has always used the same/similar standard language for computer program product claims with most Examiners not questioning the use of "computer useable medium." Nonetheless, Applicants have amended claim 16 to include a "tangible" computer useable medium to resolve this condition. Understanding that the Office has as many different preferred forms of program product claims as there are Examiners in the Office, if the Examiner prefers different language, Applicants respectfully request that a suggestion be presented to prevent Applicants from having to guess, and hence, needlessly prolonging the prosecution of the present application.

4. Rejection under 35 USC §112, second paragraph.

In the Office Action, claims 1-7, 9-10, 16-22 and 24-31 are rejected under 35 USC §112, second paragraph, as allegedly being indefinite. By this Amendment, claims 1, 9, 16, 24 and 31 have been amended to substitute "with respect to the network availability" for "with the network availability" to resolve this condition. Accordingly, Applicants respectfully request withdrawal of the rejection.

5. Rejection under 35 USC §102(e).

In the Office Action, claims 8, 11 and 23 have been rejected under 35 USC §102(e) as being anticipated by Donker et al. (US 2004/0107267), hereinafter "Donker". Applicants respectfully traverse this rejection because Donker does not disclose, *inter alia*, "a status computer component that communicates the network resource availability as available only if the network resource is available within a specified response time." (Claim 8, similarly claimed in

claim 23). In Donker, the “predetermined time out” occurs as an interval between a failed try and a retry of the availability status of a hot link. Note that, “if the web page is not found or unavailable, a predetermined time out occurs, and once expired, the lightweight protocol rechecks the availability status of such web page by resending the short request ...” (Paragraph 0043 of Donker). In the Office Action, the Office asserts that “the timeout status occurs when a response is not received within a specified period of time.” (Office Action at page 6).

Applicants submit that this assertion is not supported by the disclosure of Donker because in Donker the time out occurs when a ping of “no” is received (*see*, e.g., paragraph 0043), instead of “when a response is not received within a specified period of time.” In view of the foregoing, Applicants submit that Donker does not anticipate the claimed invention and respectfully request withdrawal of the rejection of claims 8, 11 and 23.

6. Rejection under 35 USC §103(a).

In the Office Action, claims 1-7, 9-10, 12-22 and 24-31 are rejected under 35 USC §103(a) as being unpatentable over Donker in view of Peterson et al. (US2004/0010584). Applicants respectfully traverse this rejection because Applicants object to the Office’s use of Donker as a reference in its rejection under 35 U.S.C. §103(a). Specifically, the Office admits that Donker constitutes prior art only under 35 U.S.C. 102(e). Furthermore, Applicants assert that Donker was owned by and the current application (10/709,671) was subject to an obligation of assignment to International Business Machines Corporation of Armonk, New York at the time the invention of the current application was made. For the above stated reasons, the above-referenced 35 U.S.C. §103(a) rejections of claims 1-7, 9-10, 12-22 and 24-31 based on Donker are improper and should be withdrawn. Accordingly, Applicants submit that claims 1-7, 9-10,

12-22 and 24-31 are allowable and respectfully request withdrawal of the rejection.

Applicants respectfully submit that the application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in better condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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